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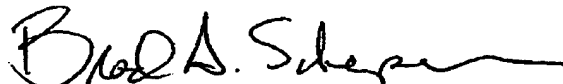
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RE: Request for Continued Examination for USSN 10/644,252, Attorney Docket: 4002-3378/PC242.38

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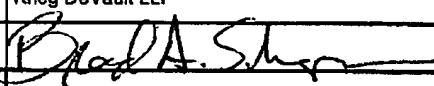
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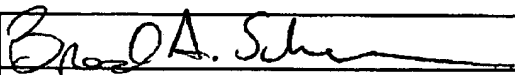
TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/544,252
	Filing Date	August 20, 2003
	First Named Inventor	Thomas Zdeblick
	Art Unit	3731
	Examiner Name	Julian W. Woo
Total Number of Pages in This Submission	Attorney Docket Number	4002-3378/PC242.38

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Request for Continued Examination Form PTO 1449 Form PTO 2038
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Krieg DeVault LLP		
Signature			
Printed name	Brad A. Schepers		
Date	July 1, 2005	Reg. No.	45,431

CERTIFICATE OF TRANSMISSION/MAILING

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Typed or printed name	Brad A. Schepers	Date	July 1, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Gary Karlin Michelson)
Serial No.: 10/740,747) Group Art Unit: 3738
Filed: December 19, 2003)
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Sir:

THIRD REQUEST FOR INTERFERENCE UNDER 37 C.F.R. § 1.604

Applicant hereby requests an interference with U.S. Application No. 10/644,252 (U.S. Publication No. 2004/0097928) to Zdeblick et al. (hereinafter, "Zdeblick") pursuant to 37 C.F.R. § 1.804(a). A proposed count is attached hereto.

Claims 44 and 46-48 of Zdeblick correspond to claims 1-4, respectively, of the proposed count. Claims 6-9 of the present application correspond to claims 1-4 of the proposed count.

Applicant requests an interference with Zdeblick because the aforementioned claims of Zdeblick cover subject matter which was invented by Applicant prior to the earliest priority date of Zdeblick.

Applicant submits that the subject matter of claims 1-4 of the proposed count are fully supported by Applicant's original disclosure, for example, on page 8, line 25 to page 9, line 3; page 12, lines 18-23; and Fig. 4A. The Examiner is requested to declare an interference between the present application and U.S. Application No. 10/644,252.

Third Request for Interference 8-10-04

PAGE 11/13 * RCVD AT 8/10/2004 5:42:27 PM [Eastern Daylight Time] * SVR:USPTO-EFAX-1/1 * DNIS:8729306 * CSID:3308772030 * DURATION (mm:ss):03:08

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T-204 P.012/018 F-423

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: September 10, 2004

By: 
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PAGE 12/13 * RCVD AT 9/10/2004 5:42:27 PM [Eastern Daylight Time] * SVR:USPTO-EFAXF-1/1 * DNS:8729306 * CSID:3308772030 * DURATION (mm-ss):03-03

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PROPOSED COUNT UNDER 37 C.F.R. § 1.604(a)(1)

1. A fusion device for facilitating arthrodesis in a disc space between adjacent vertebrae, comprising:
an elongate body having a length and including a pair of oppositely disposed arcuate side walls extending along said length and adapted for engagement with the adjacent vertebrae, said arcuate side walls defining external threads extending substantially entirely along said length, said elongate body at least partially formed of a porous biocompatible material to permit bone tissue ingrowth into said arcuate side walls.
2. The fusion device of claim 1, wherein said elongate body has a hollow interior and at least one opening in communication with said hollow interior.
3. The fusion device according to claim 2, further comprising a bone growth inducing material disposed within said hollow interior.
4. The fusion device of claim 2, wherein said at least one opening extends through a corresponding one of said arcuate side walls.